United Nations A/C.6/61/L.9

General Assembly

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Sixty-first session
Sixth Committee
Agenda item 75
Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Albania, Argentina, Australia, Austria, Belarus, Belgium, Belize, Brazil, Bulgaria, Burkina Faso, Cambodia, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Estonia, Ethiopia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Jordan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Swaziland, Sweden, Switzerland, Trinidad and Tobago, Ukraine and United Kingdom of Great Britain and Northern Ireland: draft resolution

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its resolutions 32/44 of 8 December 1977, 34/51 of 23 November 1979, 37/116 of 16 December 1982, 39/77 of 13 December 1984, 41/72 of 3 December 1986, 43/161 of 9 December 1988, 45/38 of 28 November 1990, 47/30 of 25 November 1992, 49/48 of 9 December 1994, 51/155 of 16 December 1996, 53/96 of 8 December 1998, 55/148 of 12 December 2000, 57/14 of 19 November 2002 and 59/36 of 2 December 2004,

Having considered the report of the Secretary-General,[1]

Thanking Member States and the International Committee of the Red Cross for their contribution to the report of the Secretary-General,

Reaffirming the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all

[1] A/61/222 and Add.1.

06-59940 (E) 031106

circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I[2] to the Geneva Conventions of 1949,[3]

Stressing also the possibility for the International Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

Stressing further the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions and the Additional Protocols,[4]

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meetings of representatives of those bodies organized by the International Committee of the Red Cross to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges they face,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the Additional Protocols,

Recalling that the Twenty-eighth International Conference of the Red Cross and Red Crescent stressed the need to reinforce the implementation of and respect for international humanitarian law,

Welcoming the entry into force of the Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Protocol V),[5]

Noting the adoption, on 8 December 2005, of Additional Protocol III to the 1949 Geneva Conventions and relating to the adoption of an additional distinctive emblem,

Welcoming the significant debate generated by the recent publication of the study on Customary International Humanitarian Law by the International Committee of the Red Cross and looking forward to further constructive discussion on the subject,

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[2] United Nations, *Treaty Series*, vol. 1125, No. 17512.

[3] Ibid., vol. 75, Nos. 970-973.

[4] Ibid., vol. 1125, Nos. 17512 and 17513.

[5] See CCW/MSP/2003/3, appendix II.

Calling upon Member States to disseminate knowledge of international humanitarian law as widely as possible and calling on all parties to armed conflict to apply international humanitarian law,

Recalling the entry into force, on 9 March 2004, of the second Protocol[6] to the 1954 Hague Convention, and appreciating the ratifications received so far,

Acknowledging the fact that the Rome Statute of the International Criminal Court,[7] which entered into force on 1 July 2002, includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Acknowledging also the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. *Welcomes* the universal acceptance of the Geneva Conventions of 1949,[8] and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977;[9]

2. *Calls upon* all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I,[2] or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict[10] and the two Protocols thereto, and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

6. *Notes with appreciation* the Declaration and Agenda for Humanitarian Action adopted by the Twenty-eighth International Conference of the Red Cross and Red Crescent, which noted that all States must take national measures to implement international humanitarian law, including training of the armed forces and making this law known among the general public, as well as the adoption of legislation to punish war crimes in accordance with their international obligations;

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[6] United Nations, *Treaty Series*, vol. 2253, No. 3511.

[7] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

[8] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

[9] Ibid., vol. 1125, Nos. 17512 and 17513.

[10] Ibid., vol. 249, No. 3511.

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective;

8. *Welcomes* the advisory service activities of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments;

9. *Also welcomes* the increasing number of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law;

10. *Calls upon* States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;[11]

11. *Requests* the Secretary-General to submit to the General Assembly at its sixty-third session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

12. *Decides* to include in the provisional agenda of its sixty-third session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

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[11] Resolution 54/263, annex I.

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General Assembly

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Sixty-first session
Sixth Committee
Agenda item 79
Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council,[1]

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United

[1] *Official Records of the General Assembly, Sixtieth Session, Supplement No. 47* (A/60/47).

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Nations to join in affording mutual assistance in carrying out the measures decided upon by the Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recalling also that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Noting the adoption of the revised working papers on the working methods of the Special Committee,

Taking note of the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*,[2]

Taking note also of paragraphs 106 to 110, 176 and 177 of the 2005 World Summit Outcome,[3]

Mindful of the decision of the Special Committee, in which it expressed its readiness to engage, as appropriate, in the implementation of any decisions that may be taken at the High-level Plenary Meeting of the sixtieth session of the General Assembly in September 2005 that concern the Charter and any amendments thereto,[4]

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001, 57/25 of 19 November 2002, 58/80 of 9 December 2003 and 59/45 of 2 December 2004,

Recalling also its resolution 60/23 of 23 November 2005,

Having considered the report of the Special Committee on the work of its session held in 2006,[5]

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. *Takes note* of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[5]

2. *Decides* that the Special Committee shall hold its next session from 7 to 16 February 2007;

3. *Notes with appreciation* the adoption, as a decision, of the working methods of the Special Committee, contained in paragraph 72 of its 2006 report;

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[2] A/61/153**.

[3] See resolution 60/1.

[4] *Official Records of the General Assembly, Sixtieth Session, Supplement No. 33* (A/60/33), para. 77.

[5] *Ibid., Sixty-first Session, Supplement No. 33* (A/61/33).

4. *Requests* the Special Committee, at its session in 2007, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2007;

(b) To continue to consider, on a priority basis and in an appropriate substantive manner and framework, the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General[6] and the proposals submitted on the question;

(c) To keep on its agenda the question of the peaceful settlement of disputes between States;

(d) To consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the High-level Plenary Meeting of the sixtieth session of the Assembly in September 2005 that concern the Charter and any amendments thereto;

(e) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency with a view to identifying widely acceptable measures for future implementation;

5. *Invites* the Special Committee at its session in 2007 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;

6. *Notes* the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;

7. *Requests* the Special Committee to submit a report on its work to the General Assembly at its sixty-second session;

8. *Recognizes* the important role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work, as well as the importance of having recourse to the Court in the peaceful settlement of disputes, and requests the Secretary-General to distribute, in due course, the advisory opinions requested by the principal organs of the United Nations as official documents of the United Nations;

9. *Commends* the Secretary-General for the progress made in the preparation of studies of the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and the wider cooperation with academic institutions for this purpose, as well as the

[6] A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/361, A/50/423, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346, A/59/334 and A/60/320.

progress made towards updating the *Repertoire of the Practice of the Security Council*;

10. *Calls upon* the Secretary-General to continue his efforts towards updating the two publications;

11. *Reiterates* the responsibility of the Secretary-General for the quality of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and, in particular, with regard to the *Repertoire of the Practice of the Security Council*, requests the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report of 18 September 1952;[7]

12. *Recognizes* the desirability of making available electronically the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* in all their respective language versions;

13. *Reiterates* its call for voluntary contributions to the trust fund for the updating of the *Repertoire of the Practice of the Security Council*, as well as the trust fund for the elimination of the backlog in the *Repertory of Practice of United Nations Organs*, and the sponsoring, on a voluntary basis, and at no cost to the United Nations, of associate experts to assist in the updating of the two publications;

14. *Requests* the Secretary-General to submit a report on both the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* to the General Assembly at its sixty-second session;

15. *Also requests* the Secretary-General to submit to the Special Committee for its consideration the information referred to in paragraph 12 of his report on implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions,[8] on modalities, technical procedures and guidelines on coordination of technical assistance available to third States affected by the implementation of sanctions, as well as a possible methodology for assessing the adverse consequences actually incurred by third States, in the report mentioned in paragraph 14 above;

16. *Further requests* the Secretary-General to submit a report on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions to the General Assembly at its sixty-second session, under the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization";

17. *Decides* to include in the provisional agenda of its sixty-second session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

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[7] A/2170.

[8] A/61/304.

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Sixth Committee
Agenda item 79
Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Draft resolution

Corrigendum

Paragraph 2

For 7 to 16 February 2007 *read* 7 to 14 and 16 February 2007.

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United Nations A/C.6/61/L.11

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Sixty-first session
Sixth Committee
Agenda item 148
Report of the Committee on Relations with the Host Country

Bulgaria, Canada, Costa Rica, Côte d'Ivoire and Cyprus: draft resolution

Report of the Committee on Relations with the Host Country

The General Assembly,

Having considered the report of the Committee on Relations with the Host Country,[1]

Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations,[2] the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations[3] and the responsibilities of the host country,

Recalling also that, in accordance with paragraph 7 of General Assembly resolution 2819 (XXVI) of 15 December 1971, the Committee should consider, and advise the host country on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,

Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

1. *Endorses* the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 86 of its report;[1]

2. *Considers* that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations and the observance of their privileges and immunities, which is an issue of great importance, are in the interest of the United Nations and all Member States, and requests the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the

[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 26* (A/61/26).
[2] Resolution 22 A (I).
[3] See resolution 169 (II).

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functioning of missions; and urges the host country to continue to take appropriate action, such as training of police, security, customs and border control officers, with a view to maintaining respect for diplomatic privileges and immunities and if violations occur to ensure that such cases are properly investigated and remedied, in accordance with applicable law;

3. *Notes* the problems experienced by some permanent missions in connection with the implementation of the Parking Programme for Diplomatic Vehicles[4] and shall remain seized of the matter, with a view to continuing to maintain the proper implementation of the Parking Programme in a manner that is fair, non-discriminatory, effective and therefore consistent with international law, and also notes the decision of the Committee to conduct another review of the implementation of the Programme during the sixty-first session of the General Assembly and, subject to its outcome, will proceed accordingly;

4. *Requests* the host country to consider removing the remaining travel restrictions and notes that during the reporting period some travel restrictions previously imposed by the host country on staff of certain missions and staff members of the Secretariat of certain nationalities were removed; in this regard, the Committee notes the positions of affected States as reflected in its report, of the Secretary-General and of the host country;

5. *Notes* that the Committee anticipates that the host country will enhance its efforts to ensure the issuance, in a timely manner, of entry visas to representatives of Member States, pursuant to article IV, section 11, of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations[3] to travel to New York on United Nations business; and notes that the Committee anticipates that the host country will enhance efforts to facilitate participation, including visa issuance, of representatives of Member States in other United Nations meetings as appropriate;

6. *Also notes* that a number of delegations have requested shortening the time frame applied by the host country for issuance of entry visas to representatives of Member States, since this time frame poses difficulties for the full-fledged participation of Member States in United Nations meetings;

7. *Expresses its appreciation* for the efforts made by the host country, and hopes that the issues raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law;

8. *Affirms* the importance of the Committee being in a position to fulfil its mandate and meet on short notice to deal with urgent and important matters concerning the relations between the United Nations and the host country, and in that connection requests the Secretariat and the Committee on Conferences to accord priority to requests from the Committee for conference-servicing facilities for meetings of the Committee that must be held while the General Assembly and its Main Committees are meeting, without prejudice to the requirements of those bodies and on an "as available" basis;

9. *Requests* the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country;

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[4] A/AC.154/355, annex.

10. *Requests* the Committee to continue its work in conformity with General Assembly resolution 2819 (XXVI);

11. *Decides* to include in the provisional agenda of its sixty-second session the item entitled "Report of the Committee on Relations with the Host Country".

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Sixty-first session
Sixth Committee
Agenda item 128
Administration of justice at the United Nations

Administration of justice at the United Nations

Draft decision

The Sixth Committee decides to hold a resumed session of 10 meetings in March 2007, to continue the consideration of the report of the Redesign Panel on the United Nations system of administration of justice (A/61/205), taking into account the comments that will be made by the Secretary-General on the report of the Redesign Panel.

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United Nations A/C.6/61/L.13

General Assembly

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Sixty-first session
Sixth Committee
Agenda item 33
Comprehensive review of the whole question of peacekeeping operations in all their aspects

Liechtenstein: draft resolution

Criminal accountability of United Nations officials and experts on mission

The General Assembly,

Recalling its resolution 59/281 of 29 March 2005, in which it endorsed the recommendation in paragraph 56 of the report of the Special Committee on Peacekeeping Operations[1] that the Secretary-General make available to the United Nations membership a comprehensive report on the issue of sexual exploitation and abuse in United Nations peacekeeping operations,

Noting that the Secretary-General, on 24 March 2005, transmitted to the President of the General Assembly a report of his Adviser concerning sexual exploitation and abuse by United Nations peacekeeping personnel,[2]

Recalling its resolution 59/300 of 22 June 2005 endorsing the recommendation of the Special Committee on Peacekeeping Operations[3] that a group of legal experts be established to provide advice on the best way to proceed so as to ensure that the original intent of the Charter of the United Nations can be achieved, namely that United Nations staff and experts on mission would never be effectively exempt from the consequences of criminal acts committed at their duty station, nor unjustly penalized, in accordance with due process,

Noting the report of the Group of Legal Experts[4] established by the Secretary-General pursuant to resolution 59/300,

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[1] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part one, chap. III, sect. D.

[2] See A/59/710.

[3] See *Official Records of the General Assembly, Fifth-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part two, chap. II, sect. N.

[4] See A/60/980.

06-60559 (E) 071106

Convinced of the need for the United Nations to take strong and effective steps in this regard,

1. *Decides* to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the report of the Group of Legal Experts, in particular its legal aspects;

2. *Decides also* that the Ad Hoc Committee shall meet from __ to __ 2007;

3. *Requests* the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

4. *Requests* the Ad Hoc Committee to report on its work to the General Assembly at its sixty-second session;

5. *Decides* to include in the provisional agenda of its sixty-second session the item entitled "Criminal accountability of United Nations officials and experts on mission".

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8 November 2006

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Sixty-first session
Sixth Committee
Agenda item 33
Comprehensive review of the whole question of peacekeeping operations in all their aspects

Draft resolution

Criminal accountability of United Nations officials and experts on mission

The General Assembly,

Recalling its resolution 59/281 of 29 March 2005, in which it endorsed the recommendation in paragraph 56 of the report of the Special Committee on Peacekeeping Operations[1] that the Secretary-General make available to the United Nations membership a comprehensive report on the issue of sexual exploitation and abuse in United Nations peacekeeping operations,

Noting that the Secretary-General, on 24 March 2005, transmitted to the President of the General Assembly a report of his Adviser concerning sexual exploitation and abuse by United Nations peacekeeping personnel,[2]

Recalling its resolution 59/300 of 22 June 2005 endorsing the recommendation of the Special Committee on Peacekeeping Operations[3] that a group of legal experts be established to provide advice on the best way to proceed so as to ensure that the original intent of the Charter of the United Nations can be achieved, namely that United Nations staff and experts on mission would never be effectively exempt from the consequences of criminal acts committed at their duty station, nor unjustly penalized, in accordance with due process,

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* Reissued for technical reasons.

[1] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part one, chap. III, sect. D.

[2] See A/59/710.

[3] See *Official Records of the General Assembly, Fifth-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part two, chap. II, sect. N.

06-60559* 081106

Noting the report of the Group of Legal Experts[4] established by the Secretary-General pursuant to resolution 59/300,

Convinced of the need for the United Nations to take strong and effective steps in this regard,

1. *Decides* to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the report of the Group of Legal Experts, in particular its legal aspects;

2. *Decides also* that the Ad Hoc Committee shall meet from __ to __ 2007;

3. *Requests* the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

4. *Requests* the Ad Hoc Committee to report on its work to the General Assembly at its sixty-second session;

5. *Decides* to include in the provisional agenda of its sixty-second session the item entitled "Criminal accountability of United Nations officials and experts on mission".

[4] See A/60/980.

United Nations A/C.6/61/L.14

General Assembly

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7 November 2006

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Sixty-first session
Sixth Committee
Agenda item 78
Report of the International Law Commission on the work of its fifty-eighth session

Draft resolution

Report of the International Law Commission on the work of its fifty-eighth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its fifty-eighth session,[1]

Emphasizing the importance of furthering the codification and progressive development of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

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[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10* (A/61/10).

[2] Resolution 2625 (XXV), annex.

06-60565 (E) 071106

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the General Assembly,

1. *Takes note* of the report of the International Law Commission on the work of its fifty-eighth session,[1] and recommends that the Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the General Assembly;

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its fifty-eighth session, in particular for the following accomplishments:

(a) The completion of the second reading of the draft articles on diplomatic protection;

(b) The completion of the second reading of the draft principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities under the topic "International liability for injurious consequences arising out of acts not prohibited by international law (International liability in case of loss for transboundary harm arising out of hazardous activities);

(c) The completion of the first reading of the draft articles on the law of transboundary aquifers under the topic "Shared natural resources";

(d) The completion of the work on "Unilateral acts of States" by the adoption of the guiding principles applicable to unilateral declarations of States capable of creating legal obligations;

(e) The completion by its Study Group of the report and the conclusions on the topic "Fragmentation of international law: difficulties arising from diversification and expansion of international law";

3. *Takes note* of the Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations under the topic "Unilateral acts of States", contained in paragraph 176 of the report of the International Law Commission[1] and commends their dissemination;

4. *Also takes note* of the forty-two conclusions of the Commission's Study Group on the topic "Fragmentation of international law: difficulties arising from diversification and expansion of international law", contained in paragraph 251 of

the report of the International Law Commission, together with the analytical study[3] on which they were based;

5. *Draws the attention* of Governments to the importance for the International Law Commission of having their views on the various aspects involved in the topics on the agenda of the Commission identified in chapter III of its report, including in particular on the draft articles and commentaries on the law of transboundary aquifers;[4]

6. *Invites* Governments to provide to the International Law Commission, as requested in chapter III of its report,[5] information on legislation and practice regarding the topic "the Obligation to extradite or prosecute (*aut dedere aut judicare*)";

7. *Takes note* of the decision of the International Law Commission to include five topics[6] in its long-term programme of work;

8. *Invites* the International Law Commission to continue taking measures to enhance its efficiency and productivity and to consider making proposals to that end;

9. *Encourages* the International Law Commission to continue taking cost-saving measures at its future sessions without prejudice to the efficiency of its work;

10. *Takes note* of paragraph 270 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 7 May to 8 June and from 9 July to 10 August 2007;

11. *Welcomes* the enhanced dialogue between the International Law Commission and the Sixth Committee at the sixty-first session of the General Assembly, stresses the desirability of further enhancing the dialogue between the two bodies, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the sixty-second session of the Assembly;

12. *Encourages* delegations, during the debate on the report of the International Law Commission, to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

13. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

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[3] A/CN.4/L.682 and Corr.1 and Add.1.

[4] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10* (A/61/10), paras. 75 and 76.

[5] Ibid., paras. 26-33.

[6] Immunity of State officials from foreign criminal jurisdiction; Jurisdictional immunity of international organizations; Protection of persons in the event of disasters; Protection of personal data in the transborder flow of information; and Extraterritorial jurisdiction.

14. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

15. *Takes note* of paragraphs 271 to 274 of the report of the International Law Commission with regard to cooperation with other bodies, and encourages the Commission to continue the implementation of article 16, paragraph (*e*), and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

16. *Notes* that the International Law Commission, in accordance with article 25, paragraph 1, of its statute, envisages a meeting during its fifty-ninth session with United Nations experts in the field of human rights, including representatives from human rights treaty bodies, in order to hold a discussion on issues relating to human rights treaties;

17. *Also notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

18. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission;

19. *Approves* the conclusions reached by the International Law Commission in paragraphs 262 to 267 of its report, and reaffirms its previous decisions concerning the documentation and summary records of the Commission;[7]

20. *Notes with appreciation* the expansion of the website of the International Law Commission[8] to include all its documentation and welcomes the continuous efforts of the Codification Division to maintain and improve the website;

21. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants, in particular from developing countries, will be given the opportunity to attend the Seminar, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

22. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue considering ways to improve the structure and content of the Seminar;

23. *Also requests* the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the sixty-first session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral

[7] See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly.

[8] www.un.org/law/ilc/.

statements, and to prepare and distribute a topical summary of the debate, following established practice;

24. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;

25. *Recommends* that the debate on the report of the International Law Commission at the sixty-second session of the General Assembly commence on 29 October 2007.

United Nations A/C.6/61/L.15

General Assembly

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Sixty-first session
Sixth Committee
Agenda item 78
Report of the International Law Commission on the work of its fifty-eighth session

Diplomatic protection

The General Assembly,

Having considered chapter IV of the report of the International Law Commission on the work of its fifty-eighth session,[1] which contains the draft articles on diplomatic protection,[2]

Noting that the Commission decided to recommend to the General Assembly the elaboration of a convention on the basis of the draft articles on diplomatic protection,[3]

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of diplomatic protection is of major importance in the relations of States,

Taking into account views and comments expressed in the Sixth Committee on chapter IV on diplomatic protection of the report of the Commission,[4]

1. *Expresses its appreciation* to the International Law Commission for its continuing contribution to the codification and progressive development of international law;

2. *Takes note* of the draft articles on diplomatic protection, presented by the Commission,[2] and invites Governments to submit comments concerning the recommendation by the Commission to elaborate a convention on the basis of these articles;[3]

[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10* (A/61/10).
[2] Ibid., para. 49.
[3] Ibid., para. 46.
[4] Ibid., para. 50.

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3. *Decides* to include in the provisional agenda of its sixty-second session an item entitled "Diplomatic protection".

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Sixty-first session
Sixth Committee
Agenda item 78
Report of the International Law Commission on the work of its fifty-eighth session

Draft resolution

Allocation of loss in the case of transboundary harm arising out of hazardous activities

The General Assembly,

Recalling that the International Law Commission at its fifty-third session[1] completed the draft articles on prevention of transboundary harm from hazardous activities and recommended to the General Assembly the elaboration of a convention on the basis of the draft articles,

Recalling also its resolution 56/82 of 12 December 2001,

Having considered chapter V of the report of the Commission on the work of its fifty-eighth session,[2] which contains the draft principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities,

Noting that the Commission decided to recommend to the General Assembly that it endorse the draft principles by a resolution and urge States to take national and international action to implement them,[3]

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the questions of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm are of major importance in the relations of States,

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[1] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10* and corrigendum (A/56/10 and Corr.1), paras. 91, 94 and 97.
[2] Ibid., *Sixty-first Session, Supplement No. 10* (A/61/10).
[3] Ibid., para. 63.

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Taking into account views and comments expressed in the Sixth Committee on chapter V of the report of the Commission on international liability in case of loss from transboundary harm arising out of hazardous activities[4] of the report of the Commission at its fifty-eighth session,

1. *Expresses its appreciation* to the International Law Commission for its continuing contribution to the codification and progressive development of international law;

2. *Takes note* of the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, presented by the Commission, the text of which is annexed to the present resolution, and commends them to the attention of Governments;

3. *Decides* to include in the provisional agenda of its sixty-second session an item entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm".

Annex

Principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities

The General Assembly,

Reaffirming Principles 13 and 16 of the Rio Declaration on Environment and Development,

Recalling the Draft articles on the Prevention of Transboundary Harm from Hazardous Activities,

Aware that incidents involving hazardous activities may occur despite compliance by the relevant State with its obligations concerning prevention of transboundary harm from hazardous activities,

Noting that as a result of such incidents other States and/or their nationals may suffer harm and serious loss,

Emphasizing that appropriate and effective measures should be in place to ensure that those natural and legal persons, including States, that incur harm and loss as a result of such incidents are able to obtain prompt and adequate compensation,

Concerned that prompt and effective response measures should be taken to minimize the harm and loss which may result from such incidents,

Noting that States are responsible for infringements of their obligations of prevention under international law,

Recalling the significance of existing international agreements covering specific categories of hazardous activities and stressing the importance of the conclusion of further such agreements,

[4] Ibid.

Desiring to contribute to the development of international law in this field,

...

Principle 1
Scope of application

The present draft principles apply to transboundary damage caused by hazardous activities not prohibited by international law.

Principle 2
Use of terms

For the purposes of the present draft principles:

(*a*) "damage" means significant damage caused to persons, property or the environment; and includes:

(i) loss of life or personal injury;

(ii) loss of, or damage to, property, including property which forms part of the cultural heritage;

(iii) loss or damage by impairment of the environment;

(iv) the costs of reasonable measures of reinstatement of the property, or environment, including natural resources;

(v) the costs of reasonable response measures;

(*b*) "environment" includes natural resources, both abiotic and biotic, such as air, water, soil, fauna and flora and the interaction between the same factors, and the characteristic aspects of the landscape;

(*c*) "hazardous activity" means an activity which involves a risk of causing significant harm;

(*d*) "State of origin" means the State in the territory or otherwise under the jurisdiction or control of which the hazardous activity is carried out;

(*e*) "transboundary damage" means damage caused to persons, property or the environment in the territory or in other places under the jurisdiction or control of a State other than the State of origin;

(*f*) "victim" means any natural or legal person or State that suffers damage;

(*g*) "operator" means any person in command or control of the activity at the time the incident causing transboundary damage occurs.

Principle 3
Purposes

The purposes of the present draft principles are:

(*a*) to ensure prompt and adequate compensation to victims of transboundary damage; and

(*b*) to preserve and protect the environment in the event of transboundary damage, especially with respect to mitigation of damage to the environment and its restoration or reinstatement.

Principle 4
Prompt and adequate compensation

1. Each State should take all necessary measures to ensure that prompt and adequate compensation is available for victims of transboundary damage caused by hazardous activities located within its territory or otherwise under its jurisdiction or control.

2. These measures should include the imposition of liability on the operator or, where appropriate, other person or entity. Such liability should not require proof of fault. Any conditions, limitations or exceptions to such liability shall be consistent with draft principle 3.

3. These measures should also include the requirement on the operator or, where appropriate, other person or entity, to establish and maintain financial security such as insurance, bonds or other financial guarantees to cover claims of compensation.

4. In appropriate cases, these measures should include the requirement for the establishment of industry-wide funds at the national level.

5. In the event that the measures under the preceding paragraphs are insufficient to provide adequate compensation, the State of origin should also ensure that additional financial resources are made available.

Principle 5
Response measures

Upon the occurrence of an incident involving a hazardous activity which results or is likely to result in transboundary damage:

(*a*) the State of origin shall promptly notify all States affected or likely to be affected of the incident and the possible effects of the transboundary damage;

(*b*) the State of origin, with the appropriate involvement of the operator, shall ensure that appropriate response measures are taken and should, for this purpose, rely upon the best available scientific data and technology;

(*c*) the State of origin, as appropriate, should also consult with and seek the cooperation of all States affected or likely to be affected to mitigate the effects of transboundary damage and if possible eliminate them;

(*d*) the States affected or likely to be affected by the transboundary damage shall take all feasible measures to mitigate and if possible to eliminate the effects of such damage;

(*e*) the States concerned should, where appropriate, seek the assistance of competent international organizations and other States on mutually acceptable terms and conditions.

Principle 6
International and domestic remedies

1. States shall provide their domestic judicial and administrative bodies with the necessary jurisdiction and competence and ensure that these bodies have prompt, adequate and effective remedies available in the event of transboundary damage caused by hazardous activities located within their territory or otherwise under their jurisdiction or control.

2. Victims of transboundary damage should have access to remedies in the State of origin that are no less prompt, adequate and effective than those available to victims that suffer damage, from the same incident, within the territory of that State.

3. Paragraphs 1 and 2 are without prejudice to the right of the victims to seek remedies other than those available in the State of origin.

4. States may provide for recourse to international claims settlement procedures that are expeditious and involve minimal expenses.

5. States should guarantee appropriate access to information relevant for the pursuance of remedies, including claims for compensation.

Principle 7
Development of specific international regimes

1. Where, in respect of particular categories of hazardous activities, specific global, regional or bilateral agreements would provide effective arrangements concerning compensation, response measures and international and domestic remedies, all efforts should be made to conclude such specific agreements.

2. Such agreements should, as appropriate, include arrangements for industry and/or State funds to provide supplementary compensation in the event that the financial resources of the operator, including financial security measures, are insufficient to cover the damage suffered as a result of an incident. Any such funds may be designed to supplement or replace national industry-based funds.

Principle 8
Implementation

1. Each State should adopt the necessary legislative, regulatory and administrative measures to implement the present draft principles.

2. The present draft principles and the measures adopted to implement them shall be applied without any discrimination such as that based on nationality, domicile or residence.

3. States should cooperate with each other to implement the present draft principles.